

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOHN JONES (#162751),

Plaintiff,

CASE NO. 2:10-CV-12114
JUDGE ARTHUR J. TARNOW
MAGISTRATE JUDGE ANTHONY P. PATTI

v.

PATRICIA BARNHART and
PAULA MASS,

Defendants.

**ORDER DENYING WITHOUT PREJUDICE PLAINTIFF'S JULY 8, 2014
MOTION TO APPOINT COUNSEL (DE 80)**

A. Procedural Background

Plaintiff John Jones (#162751) is currently incarcerated at the Michigan Department of Corrections (MDOC) Thumb Correctional Facility (TCF).¹ Jones originally filed this case *pro se* on May 26, 2010. DE 1.

On November 9, 2010, this Court entered an order (DE 21) denying without prejudice Plaintiff's requests for the appointment of counsel (DE 3 and DE 10). On March 22, 2012, this Court entered an order (DE 45) denying without prejudice Plaintiff's November 9, 2011 motion for appointment of counsel (DE 39). That

¹See www.michigan.gov/corrections, "Offender Search."

order provided, “Plaintiff may renew his request if this case survives dispositive motion practice and/or proceeds to trial.” DE 45 at 4.

On August 22, 2013, Plaintiff filed an amended complaint (DE 59) naming two (2) defendants: Patricia Barnhart and Paula Mass. On December 3, 2013, defendant Barnhart filed a motion for summary judgment. DE 63. However, on September 15, 2014, the Court entered an order (DE 81) adopting the Court’s report and recommendation (DE 68) and denying defendant Barnhart’s motion for summary judgment (DE 63).

B. Pending Motions

On March 25, 2014, Barnhart filed both a motion for leave to file a second motion for summary judgment (DE 69), which the Court later granted (DE 83), and a motion for summary judgment (DE 70). The other matters pending before this Court include Plaintiff’s April 9, 2014 motion to compel discovery (DE 72), Defendant Barnhart’s April 15, 2014 motion to stay discovery (DE 74) and Plaintiff’s July 8, 2014 motion for appointment of counsel (DE 80).

C. Discussion

For the following reasons, plaintiff’s July 8, 2014 motion for appointment of counsel (DE 80) will be denied. First, dispositive motion practice is still active in this case. To be sure, the Defendants (Burton, Rewerts and Wilson) who filed the November 8, 2010 motion for summary judgment (DE 19) are no longer part of

this case (*see* DE 41); Plaintiff's July 12, 2012 motion for summary judgment (DE 49) was denied without prejudice (DE 57); and Defendant Barnhart's December 3, 2013 motion for summary judgment (DE 63) was denied (DE 81). However, Defendant Barnhart's March 25, 2014 motion for summary judgment (DE 70) is pending, regarding which a report and recommendation is forthcoming.

Second, on several occasions, plaintiff has illustrated his ability to adequately communicate his requests to this Court. For example, in addition to the instant motion to appoint counsel (DE 80), Plaintiff has filed a motion for default judgment (DE 24), which the Court denied without prejudice (DE 27); a motion for order to show cause and for sanctions (DE 33), which the Court denied (DE 36); a motion to appoint counsel (DE 39), which the Court denied without prejudice (DE 45); a motion for discovery (DE 48) and the aforementioned motion for summary judgment (DE 49), each of which the Court denied without prejudice (DE 57); a motion for leave to amend complaint (DE 56), which the Court granted (DE 58); and a request for enlargement of time (DE 77), which the Court granted (DE 83). Here, too, an order addressing plaintiff's April 9, 2014 motion to compel discovery (DE 72) is forthcoming.

D. Order

Upon consideration, plaintiff's July 8, 2014 motion for appointment of

counsel (DE 80) is **DENIED WITHOUT PREJUDICE**. Plaintiff may renew his request for the appointment of counsel if this case survives dispositive motion practice, proceeds to trial and/or if other circumstances warranting the appointment of counsel arise.

IT IS SO ORDERED.

Dated: February 5, 2015

s/ Anthony P. Patti
Anthony P. Patti
UNITED STATES MAGISTRATE JUDGE

I hereby certify that a copy of the foregoing document was sent to parties of record on February 5, 2014, electronically and/or by U.S. mail.

s/Michael Williams
Case Manager for the
Honorable Anthony P. Patti